

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

SECURITIES INVESTOR PROTECTION
CORPORATION,

Plaintiff-Applicant,

v.

BERNARD L. MADOFF INVESTMENT
SECURITIES LLC,

Defendant.

Adv. Pro. No. 08-01789 (SMB)

SIPA Liquidation

(Substantively Consolidated)

In re:

BERNARD L. MADOFF,

Debtor.

**[PROPOSED] ORDER GRANTING TRUSTEE'S
MOTION *IN LIMINE* NUMBER 4 TO EXCLUDE THE TRUSTEE AS
WITNESS AND DEFERRING RULING ON TRUSTEE'S MOTION *IN LIMINE*
NUMBER 2 TO EXCLUDE CERTAIN TESTIMONY OF JOEL AND NORMAN BLUM**

On June 24, 2015, this Court entered a procedures order, including provision for an evidentiary hearing (the "Profit Withdrawal Hearing"), to govern litigation regarding treatment of profit withdrawal transactions (the "PW Procedures Order"), ECF No. 10266, by Irving H. Picard, trustee ("Trustee") for the substantively consolidated liquidation of the business of BLMIS under the Securities Investor Protection Act, 15 U.S.C. § 78aaa *et seq.* and the chapter 7 estate of Bernard L. Madoff, and any claimant wishing to participate. In accordance with the PW Procedures Order, on September 30, 2016, the Trustee, and participating claimants Drs. Norman and Joel Blum (the "Blums"), and a number of participating claimants represented by

Chaitman LLP (the “Chaitman Claimants”), exchanged pretrial disclosures and witness lists. Relevant here, the Blums’ identified Drs. Norman and Joel Blum, and the Chaitman Claimants identified the Trustee as witnesses with respect to the Profit Withdrawal Hearing, ECF No. 14359-6.

Thereafter, on October 28, 2016, the Trustee filed Trustee’s Motion *In Limine* Number 2 to Exclude Certain Testimony of Joel and Norman Blum (the “Blums Motion”), ECF No. 14355, and the Trustee’s Motion *In Limine* Number 4 to Exclude the Trustee as Witness (the “Picard Motion”), ECF No. 14357. On November 18, 2016, the Blums filed their opposition to the Blums Motion, ECF No. 14484. Also on November 18, 2016, the Chaitman Claimants filed their opposition to the Picard Motion, ECF No. 14476.

The Trustee filed replies in further support of the Blums Motion, ECF No. 14582, and in further support of the Picard Motion, ECF No. 14585, on December 9, 2016. This Court heard argument on the Blums and Picard Motions on April 18, 2017. Thereafter, by written decision signed on June 15, 2017, this Court granted the Picard Motion and deferred ruling on the Blums Motion (the “Decision”). ECF No. 16180.

For the reasons stated in the Decision, it is hereby **ORDERED** that:

1. The Picard Motion is granted and the Trustee may not be called to testify as a witness as part of the Profit Withdrawal Hearing;
 2. This Court defers its ruling on the Blums Motion until the Profit Withdrawal Hearing;
- and,

3. This Court shall retain exclusive jurisdiction over the enforcement, implementation, and interpretation of this Order.

Dated: New York, New York
_____, 2017

HONORABLE STUART M. BERNSTEIN
UNITED STATES BANKRUPTCY JUDGE